

AMENDED IN ASSEMBLY APRIL 27, 2016
AMENDED IN ASSEMBLY MARCH 9, 2016
AMENDED IN ASSEMBLY FEBRUARY 3, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1577

Introduced by Assembly Member Eggman
(Coauthors: Assembly Members Baker, Brough, Chávez, Dodd,
Gallagher, Cristina Garcia, Eduardo Garcia, Kim, Lackey,
Maienschein, Mathis, Olsen, Patterson, Salas, Steinorth, and
Wilk)
(Coauthors: Senators Berryhill, Cannella, Galgiani, and Wieckowski)

January 4, 2016

An act to amend Sections 17053.88 and 23688 of the Revenue and Taxation Code, and to amend Section 18995 of, and to amend the heading of Chapter 14.5 (commencing with Section 18995) of Part 6 of Division 9 of, the Welfare and Institutions Code, relating to food banks.

LEGISLATIVE COUNSEL'S DIGEST

AB 1577, as amended, Eggman. Income taxes: credits: food bank donations.

(1) The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including, for taxable years beginning on or after January 1, 2012, and before January 1, 2017, a credit for *a* qualified ~~taxpayers~~, *taxpayer*, defined as ~~the~~ *a* person responsible for planting a crop, managing the crop, and harvesting the crop from the land, in an amount equal to 10% of the cost that would otherwise be included in, or required to be included in,

inventory costs, as specified under federal law, with respect to the donation of fresh fruits or fresh vegetables to a food bank located in California.

This bill, under both laws, would expand the credit to apply to the donation of qualified donation items, defined as raw agricultural products or processed foods. The bill would expand the definition of a qualified taxpayer to also include ~~the~~ a person responsible for growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item. ~~The bill would modify the credit amount to instead equal 15% of the qualified value, as defined, of the qualified donation items, but not less than an amount that would otherwise be calculated and allowed under existing law.~~ The bill would extend the operation of the credit to taxable years before January 1, ~~2022~~, 2019, and would require it to be claimed on a timely filed *original* return. The bill would make various conforming changes and would also make a nonsubstantive change to the personal income tax provision.

(2) Existing law requires the State Department of Social Services to establish and administer the State Emergency Food Assistance Program (SEFAP), to provide food and funding for the provision of emergency food to food banks, as provided. Existing law creates the State Emergency Food Assistance Program Account ~~and would, and~~, upon appropriation by the Legislature, would allocate the moneys in the account to SEFAP and require that those moneys be used for the purchase, storage, and transportation of food grown or produced in California and for the department's administrative costs.

This bill would rename the State Emergency Food Assistance Program ~~(SEFAP)~~ as the CalFood Program and would rename the State Emergency Food Assistance Program Account as the CalFood Account. The bill would make other conforming changes in this regard.

(3) *Existing law requires any bill authorizing a new personal or corporation income tax credit to, among other things, contain specific goals, purposes, and objectives that the tax credit will achieve, detailed performance indicators, and data collection requirements.*

This bill would include that additional information.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 17053.88 of the Revenue and Taxation Code is amended to read:

17053.88. (a) In the case of a qualified taxpayer that donates to a food bank any qualified donation items that are accepted by that food bank located in California under Chapter 5 (commencing with Section 58501) of Part 1 of Division 21 of the Food and Agricultural Code, for taxable years beginning on or after January 1, 2012, and before January 1, ~~2022~~, 2019, there shall be allowed, without regard to the taxpayer's method of accounting, as a credit against the "net tax" (as defined by Section 17039), an amount equal to ~~15 percent of the qualified value of the qualified donation items, but in no event shall this amount be less than the amount that otherwise would have been calculated and allowed under this section as added by Chapter 503 of the Statutes of 2011.~~ *10 percent of the cost that would otherwise be included in inventory costs under Section 263A of the Internal Revenue Code, relating to capitalization and inclusion of inventory costs of certain expenses, or that would be required to be included in inventory costs under Section 263A of the Internal Revenue Code, but for the exception contained in Section 263A(d) of the Internal Revenue Code, relating to exception for farming businesses, with respect to those qualified donation items.*

(b) For the purposes of this section, the following definitions shall apply:

(1) "Qualified donation item" means fresh fruits or fresh vegetables and the following raw agricultural products or processed foods:

(A) All of the following:

(i) "Fruits, nuts, or vegetables" as defined in Section 42510 of the Food and Agricultural Code.

(ii) "Meat food product" as defined in Section 18665 of the Food and Agricultural Code.

(iii) "Poultry" as defined in Section 18675 of the Food and Agricultural Code.

(iv) "Eggs" as defined in Section 75027 of the Food and Agricultural Code.

(v) "Fish" as defined in Section 58609 of the Food and Agricultural Code.

(B) All of the following food as defined in Section 109935 of the Health and Safety Code:

- (i) Rice.
- (ii) Beans.
- (iii) Fruit, nuts, and vegetables in canned, frozen, dried, dehydrated, and 100-percent juice forms.
- (iv) Any cheese, milk, yogurt, butter, or dehydrated milk meeting the requirements in Division 15 (commencing with Section 32501) of the Food and Agricultural Code.
- (v) Infant formula subject to Section 114094.5 of the Health and Safety Code.
- (vi) Vegetable oil and olive oil.
- (vii) Soup, pasta sauce, and salsa.
- (viii) Bread and pasta.
- (ix) Canned meats and canned seafood.

(2) “Qualified taxpayer” means the person responsible for planting a crop, managing the crop, harvesting the crop from land, growing or raising a qualified donation item, or harvesting, packing, or processing a qualified donation item.

~~(3) “Qualified value” means either of the following:~~

~~(A) The qualified value shall be calculated by using the weighted average wholesale sale price based on the qualified taxpayer’s total like grade wholesale sales of the donated item sold within the calendar month of the qualified taxpayer’s donation.~~

~~(B) If no wholesale sales of the donated item have occurred in the calendar month of the qualified taxpayer’s donation, the qualified value shall be equal to the nearest regional wholesale market price for the calendar month of the donation based upon the same grade products as published by the United States Department of Agriculture’s Agricultural Marketing Service, or its successor.~~

(c) If the credit allowed by this section is claimed by the qualified taxpayer, any deduction otherwise allowed under this part for that amount of the cost paid or incurred by the qualified taxpayer that is eligible for the credit shall be reduced by the amount of the credit provided in subdivision (a).

(d) The donor shall provide to the food bank the ~~qualified~~ *estimated* value of the donation items and information regarding the origin of where the donation items were grown, processed, or both grown and processed. Upon receipt and acceptance of the

1 donation items, the food bank shall provide a certificate to the
2 donor. The certificate shall contain a statement signed and dated
3 by a person authorized by the food bank that the donation items
4 are accepted under Chapter 5 (commencing with Section 58501)
5 of Part 1 of Division 21 of the Food and Agricultural Code. The
6 certificate shall also contain the type, grade, and quantity of items
7 donated, the name of the donor or donors, the name and address
8 of the food bank, and, as provided by the donor, the origin of the
9 donated items, and the ~~qualified~~ *estimated* value of the donated
10 items, as described in subdivision (a). Upon the request of the
11 Franchise Tax Board, the qualified taxpayer shall provide a copy
12 of the certification to the Franchise Tax Board.

13 (e) The credit allowed by this section may be claimed only on
14 a timely filed *original* return.

15 (f) In the case where the credit allowed by this section exceeds
16 the “net tax,” the excess may be carried over to reduce the “net
17 tax” in the following year, and for the six succeeding years if
18 necessary, until the credit has been exhausted.

19 (g) Using the information available to the Franchise Tax Board
20 from the certificates required under subdivision (d) and subdivision
21 (d) of Section 23688, the Franchise Tax Board shall report to the
22 Legislature on or before December 1, 2014, and each December
23 1 thereafter until the inoperative date specified in paragraph (2)
24 of subdivision (h), regarding the utilization of the credit authorized
25 by this section and Section 23688. The Franchise Tax Board shall
26 also include in the report the estimated value of the qualified
27 donation items, the origin of the qualified donation items, and the
28 month the donation was made.

29 (h) (1) A report required to be submitted pursuant to subdivision
30 (g) shall be submitted in compliance with Section 9795 of the
31 Government Code.

32 (2) The requirement for submitting a report imposed under
33 subdivision (g) is inoperative on January 1, ~~2021~~, 2018, pursuant
34 to Section 10231.5 of the Government Code.

35 (i) This section ~~shall be~~ is repealed on December 1, ~~2022~~, 2019.

36 SEC. 2. Section 23688 of the Revenue and Taxation Code is
37 amended to read:

38 23688. (a) In the case of a qualified taxpayer that donates to
39 a food bank any qualified donation items that are accepted by that
40 food bank located in California under Chapter 5 (commencing

1 with Section 58501) of Part 1 of Division 21 of the Food and
2 Agricultural Code, for taxable years beginning on or after January
3 1, 2012, and before January 1, ~~2022~~, 2019, there shall be allowed,
4 without regard to the taxpayer's method of accounting, as a credit
5 against the "tax" (as defined by Section 23036), an amount equal
6 to ~~15 percent of the qualified value of the qualified donation items,~~
7 ~~but in no event shall this amount be less than the amount that~~
8 ~~otherwise would have been calculated and allowed under this~~
9 ~~section as added by Chapter 503 of the Statutes of 2011.~~ *10 percent*
10 *of the cost that would otherwise be included in inventory costs*
11 *under Section 263A of the Internal Revenue Code, relating to*
12 *capitalization and inclusion of inventory costs of certain expenses,*
13 *or that would be required to be included in inventory costs under*
14 *Section 263A of the Internal Revenue Code, but for the exception*
15 *contained in Section 263A(d) of the Internal Revenue Code,*
16 *relating to exceptions for farming businesses, with respect to those*
17 *qualified donation items.*

18 (b) For the purposes of this section, the following definitions
19 shall apply:

20 (1) "Qualified donation item" means fresh fruits or fresh
21 vegetables and the following raw agricultural products or processed
22 foods:

23 (A) All of the following:

24 (i) "Fruits, nuts, or vegetables" as defined in Section 42510 of
25 the Food and Agricultural Code.

26 (ii) "Meat food product" as defined in Section 18665 of the
27 Food and Agricultural Code.

28 (iii) "Poultry" as defined in Section 18675 of the Food and
29 Agricultural Code.

30 (iv) "Eggs" as defined in Section 75027 of the Food and
31 Agricultural Code.

32 (v) "Fish" as defined in Section 58609 of the Food and
33 Agricultural Code.

34 (B) All of the following food as defined in Section 109935 of
35 the Health and Safety Code:

36 (i) Rice.

37 (ii) Beans.

38 (iii) Fruit, nuts, and vegetables in canned, frozen, dried,
39 dehydrated, and 100-percent juice forms.

1 (iv) Any cheese, milk, yogurt, butter, or dehydrated milk
2 meeting the requirements in Division 15 (commencing with Section
3 32501) of the Food and Agricultural Code.

4 (v) Infant formula subject to Section 114094.5 of the Health
5 and Safety Code.

6 (vi) Vegetable oil and olive oil.

7 (vii) Soup, pasta sauce, and salsa.

8 (viii) Bread and pasta.

9 (ix) Canned meats and canned seafood.

10 (2) "Qualified taxpayer" means the person responsible for
11 planting a crop, managing the crop, harvesting the crop from land,
12 growing or raising a qualified donation item, or harvesting,
13 packing, or processing a qualified donation item.

14 ~~(3) "Qualified value" means either of the following:~~

15 ~~(A) The qualified value shall be calculated by using the weighted~~
16 ~~average wholesale sale price based on the qualified taxpayer's~~
17 ~~total like grade wholesale sales of the donated item sold within~~
18 ~~the calendar month of the qualified taxpayer's donation.~~

19 ~~(B) If no wholesale sales of the donated item have occurred in~~
20 ~~the calendar month of the qualified taxpayer's donation, the~~
21 ~~qualified value shall be equal to the nearest regional wholesale~~
22 ~~market price for the calendar month of the donation based upon~~
23 ~~the same grade products as published by the United States~~
24 ~~Department of Agriculture's Agricultural Marketing Service, or~~
25 ~~its successor.~~

26 (c) If the credit allowed by this section is claimed by the
27 qualified taxpayer, any deduction otherwise allowed under this
28 part for that amount of the cost paid or incurred by the qualified
29 taxpayer that is eligible for the credit shall be reduced by the
30 amount of the credit provided in subdivision (a).

31 (d) The donor shall provide to the food bank the ~~qualified~~
32 *estimated* value of the donation items and information regarding
33 the origin of where the donation items were grown, processed, or
34 both grown and processed. Upon receipt and acceptance of the
35 donation items, the food bank shall provide a certificate to the
36 donor. The certificate shall contain a statement signed and dated
37 by a person authorized by the food bank that the donation items
38 are accepted under Chapter 5 (commencing with Section 58501)
39 of Part 1 of Division 21 of the Food and Agricultural Code. The
40 certificate shall also contain the type, grade, and quantity of items

1 donated, the name of the donor or donors, the name and address
2 of the food bank, and, as provided by the donor, the origin of the
3 donated items, and the ~~qualified~~ *estimated* value of the donated
4 items, as described in subdivision (a). Upon the request of the
5 Franchise Tax Board, the qualified taxpayer shall provide a copy
6 of the certification to the Franchise Tax Board.

7 (e) The credit allowed by this section may be claimed only on
8 a timely filed *original* return.

9 (f) In the case where the credit allowed by this section exceeds
10 the “tax,” the excess may be carried over to reduce the “tax” in
11 the following year, and for the six succeeding years if necessary,
12 until the credit has been exhausted.

13 (g) This section ~~shall be~~ *is* repealed on December 1, ~~2022~~ 2019.

14 SEC. 3. The heading of Chapter 14.5 (commencing with
15 Section 18995) of Part 6 of Division 9 of the Welfare and
16 Institutions Code is amended to read:

17
18 CHAPTER 14.5. THE CALFOOD PROGRAM
19

20 SEC. 4. Section 18995 of the Welfare and Institutions Code is
21 amended to read:

22 18995. (a) On and after January 1, 2017, the State Emergency
23 Food Assistance Program (SEFAP), administered by the State
24 Department of Social Services, shall be renamed as the “CalFood
25 Program.” The CalFood Program shall provide food and funding
26 for the provision of emergency food to food banks established
27 pursuant to the federal Emergency Food Assistance Program (7
28 C.F.R. Parts 250 and 251) whose ongoing primary function is to
29 facilitate the distribution of food to low-income households.

30 (b) The CalFood Account is hereby established in the
31 Emergency Food Assistance Program Fund established pursuant
32 to Section 18852 of the Revenue and Taxation Code, and may
33 receive federal funds and voluntary donations or contributions.

34 (c) Notwithstanding Section 18853 of the Revenue and Taxation
35 Code, the following shall apply:

36 (1) All moneys received by the CalFood Account shall, upon
37 appropriation by the Legislature, be allocated to the State
38 Department of Social Services for allocation to the CalFood
39 Program and, with the exception of those contributions made
40 pursuant to Section 18851 of the Revenue and Taxation Code and

1 funds received through Parts 250 and 251 of Title 7 of the Code
2 of Federal Regulations, shall be used for the purchase, storage,
3 and transportation of food grown or produced in California. Storage
4 and transportation expenditures shall not exceed 10 percent of the
5 CalFood Program fund's annual budget.

6 (2) Notwithstanding paragraph (1), funds received by the
7 CalFood Account shall, upon appropriation by the Legislature, be
8 allocated to the State Department of Social Services for allocation
9 to the CalFood Program as described in paragraph (1), and shall,
10 in part, be used to pay for the department's administrative costs
11 associated with the administration of the CalFood Program.

12 *SEC. 5. For the purposes of complying with Section 41 of the*
13 *Revenue and Taxation Code, with respect to Sections 17053.88*
14 *and 23688 of the Revenue and Taxation Code, the Legislature*
15 *finds and declares as follows:*

16 *(a) Specific goal, purpose, and objective: increase the variety*
17 *of donated raw agricultural products or processed foods.*

18 *(b) Performance indicator: types of qualified items donated.*

19 *(c) Data collection requirements and baseline measurements:*

20 *(1) The baseline measurements include the current types of*
21 *donated raw agricultural products or processed foods.*

22 *(2) Data to collect includes the types of raw agricultural*
23 *products or processed foods donated after the tax credit is put in*
24 *place.*